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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 4055 of 2007
Date of decision: 20.12.2007

Haryana State Industrial Corporation Limted

...Appellants

Versus

M/s Paramount Scientific Works

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

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Present: Mr. Ashok S. Chaudhary, Advocate for the appellant.

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RAJESH BINDAL, J.

The defendant is in appeal before this Court against the judgment and decree of the learned Lower Appellate Court whereby after reversing that of the trial Court, suit filed by respondent/plaintiff for declaration to the effect that letter No. HSIDC: DEO : 92 : 580 dated December 23, 1992 issued by the appellant was arbitrary, unlawful, unconstitutional and void was decreed.

Briefly the facts are that the respondent/plaintiff applied for 5 marla plot in the Industrial Area, Ambala Cantt. On May 21, 1975 the plot was allotted. Respondent/plaintiff paid the requisite allotment money and also the subsequent installments, which admittedly were paid though a bit late. The possession of the plot was handed over to the respondent/plaintiff only on May 27, 1985. Though, as per allotment letter it is stated that the allottee was required to start construction on the plot within six months, complete the same within two years and start production within three years from the date of allotment, however, in view of the fact that possession of

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the plot itself was not delivered for more than 11 years, the allottee was unable to raise construction. It has come on record that period for raising the construction was further extended upto June 30, 1992 and on alleged failure of the respondent/plaintiff, vide communication dated December 23, 1992 the plot in question was resumed. Learned trial Court dismissed the suit upholding the resumption. However, learned Lower Appellate court while reversing the findings recorded by the trial Court opined that during the pendency of the proceedings, the respondent/plaintiff had already raised construction and started his business in the premises. Object for which this confiscatory provisions were incorporated in the allotment letter had already been attained. While decreeing the suit the resumption of the plot was held to be illegal.

Learned counsel for the appellant submitted that once the respondent/plaintiff had failed to adhere to the terms and conditions of the allotment, the resumption of the premises was required to be upheld as the appellant had proceeded strictly in terms thereof. However, I do not find any merit in the submission made. It is not disputed that though in the allotment letter, it was mentioned that the allottee was required to start construction on the plot within six months, complete the same within two years and start production within three years from the date of allotment, however, still appellant had not delivered possession of the plot to the respondent/plaintiff for more than eleven years and the reason to justify the delay is only that development work in the area was not complete. The real effort of the appellant to see that industrial estate developed immediately after allotment is made to the allottees, was frustrated by their own action. In the present case, it is not in dispute that the entire allotment money of the plot had already been paid by the respondent/plaintiff long back and infact now the building has been constructed and business is being carried on there. Once the appellant had himself not been able to adhere to the schedule framed by them. Even if there is some delay in raising of construction by the respondent/plaintiff and further that thereafter during the pendency of the case, the building is complete and the business is being carried on in the premises, I do not find that view expressed by the learned

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Lower Appellate Court is perverse or illegal keeping in view the facts and circumstances of the case.

No substantial question of law arises in the present appeal.

The appeal is, accordingly, dismissed.

December 20 , 2007 **(Rajesh Bindal)**
Pka **Judge**